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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 BRIAN ANTHONY GATES,) CASE NO. C07-1836-RAJ
09 Plaintiff,)
10 v.)
11 UNITED STATES DEPARTMENT) REPORT AND RECOMMENDATION
12 OF JUSTICE, et al.,)
13 Defendants.)
_____)

14 INTRODUCTION AND SUMMARY CONCLUSION

15 Plaintiff Brian Anthony Gates, proceeding *pro se*, filed a proposed complaint and
16 application to proceed *in forma pauperis* (IFP). (Dkt. 1.) However, although purporting to
17 pursue a civil case, plaintiff fails to present any civil claims. Instead, he alleges violations of the
18 criminal code. (*Id.*, Attach. 1.)

19 Pursuant to 28 U.S.C. § 1915(e)(2)(B), this Court may deny an application to proceed IFP
20 and should dismiss a complaint if it is frivolous or fails to state a claim upon which relief may be
21 granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(ii); *O’Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir.
22 1990). An action is frivolous if “it lacks an arguable basis either in law or in fact.” *Neitzke v.*

01 *Williams*, 490 U.S. 319, 325 (1989).

02 Here, as noted above, plaintiff's proposed complaint alleges only violations of the criminal
03 code. If plaintiff intended to pursue any civil claims, he fails to allege sufficient facts to place
04 defendants on notice of the nature of his claims or to otherwise provide any basis for jurisdiction
05 in this Court. *See* Fed. R. Civ. P. 8(a). Because this action appears frivolous and fails to state a
06 claim upon which relief can be granted, it is subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)
07 and Federal Rule of Civil Procedure 12(b)(6).

08 Given the above, the Court recommends that plaintiff's application to proceed IFP be
09 denied and this matter be dismissed without prejudice. A proposed Order is attached to this
10 Report and Recommendation.

11 DATED this 19th day of November, 2007.

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14 Mary Alice Theiler
15 United States Magistrate Judge
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